

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0803

## SENATE BILL NO. 259

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to promote personal responsibility and provide temporary  
2 assistance for needy families and to revise certain provisions relating to public assistance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The implementation of assistance under this Act does not establish a personal or  
5 family entitlement to assistance.

6 Section 2. Terms used in this Act mean:

7 (1) "Assistance," includes money, services, goods, or other types of temporary assistance  
8 made with respect to any child or with respect to the parents of any child for whom  
9 federal funds are available to the state under this Act;

10 (2) "Department," the Department of Social Services;

11 (3) "Title IV," including its derivatives, refers to Title IV of the federal Social Security  
12 Act.

13 Section 3. The terms, aid to dependent children or aid to families with dependent children,  
14 wherever used in this code refer to temporary assistance for needy families unless otherwise  
15 indicated. The code commission in future supplements and revisions of the South Dakota  
16 Codified Laws shall substitute the term, temporary assistance for needy families, and its

1 derivatives for the terms, aid to dependent children or aid to families with dependent children,  
2 and their derivatives.

3 Section 4. The department may adopt such rules as may be necessary and desirable to  
4 implement the provisions of this Act. The department may adopt rules to regulate:

- 5 (1) Assistance eligibility qualifications, application procedure, and assistance level;
- 6 (2) Employability assessment, work activities, and supportive services;
- 7 (3) Conditions of continued eligibility, eligibility time limits, eligibility recertification  
8 periods, and exemptions;
- 9 (4) Program participation requirements, criteria for disqualification, and good cause  
10 exemptions;
- 11 (5) Disqualification for intentional program violation or failure to comply with program  
12 requirements;
- 13 (6) Benefit recovery and recoupment policies and procedures;
- 14 (7) Methods of distribution and payment of moneys appropriated by the Legislature or  
15 received from the federal government for the granting of temporary assistance for  
16 needy families;
- 17 (8) Development of applications, reports, and other forms;
- 18 (9) Enforcement of child support obligations including distribution of collections,  
19 cooperative agreements with courts and law enforcement officials, and such other  
20 rules as may be found necessary or desirable to qualify for federal financial  
21 participation;
- 22 (10) Collection, audit, and reporting of facts and statistics relating to the field of public  
23 assistance;
- 24 (11) Compliance with federal reporting and documentation requirements necessary to  
25 qualify for federal funds;

(12) Such other rules and standards of operation and administration within the mandate of this Act as may be necessary or desirable to qualify for federal financial participation.

The rules shall be adopted in accordance with chapter 1-26 and shall be consistent with this Act.

Section 5. Eligibility criteria and assistance level for temporary assistance for needy families shall be determined by the department with due regard to the necessary expenditures of families in this state.

Section 6. An applicant for or recipient of assistance under this Act shall supply proof of or apply for a social security number as a condition of eligibility to receive assistance. The parent or relative with whom the child resides shall comply on behalf of a child for whom assistance is claimed.

Section 7. An applicant or recipient of assistance under this Act shall, as a condition of eligibility for assistance, cooperate with proceedings to establish paternity and to enforce, collect, or modify child support on behalf of any child for whom assistance is claimed or received.

Section 8. Application for or receipt of assistance under this Act or of foster care maintenance payments under the Title IV-E state plan shall operate as an assignment by operation of law of all support rights from any person, which such applicant or recipient may have on the applicant's or recipient's own behalf or on behalf of any other family member for whom the recipient is receiving assistance or Title IV-E foster care maintenance payments, including any support payments accrued and unpaid at the time of the assignment.

Section 9. The department shall deny additional cash assistance to a person who received temporary assistance for needy families at any time within the ten-month period ending with the birth of a child unless the person was pregnant with the child at the time of application. This section does not apply to a birth that occurs as a result of rape or incest.

Section 10. Application shall be made in a manner prescribed by the department. The

1 department shall promptly notify the applicant of its decision.

2 Section 11. The department shall make such assessment of the skills, prior work experience,  
3 and employability of eligible applicants or recipients as may be necessary and feasible for the  
4 purposes of this Act.

5 Section 12. The department may adopt by rules promulgated pursuant to chapter 1-26  
6 reasonable standards for the participation of eligible recipients in work activities and programs  
7 of assistance calculated to foster parental responsibility, employment, or family independence.

8 Section 13. The department may deny, reduce, or terminate assistance to an applicant or  
9 recipient who voluntarily refuses to participate in an assessment, work activity, or assistance  
10 program for such period as may be reasonably necessary to deter program waste or abuse. The  
11 department may adopt by rules promulgated pursuant to chapter 1-26 necessary and reasonable  
12 exemptions and deferrals. The department shall have access to the home of a dependent child at  
13 reasonable times for the purpose of conducting such investigation as may be necessary to assure  
14 compliance with program requirements.

15 Section 14. The department may implement such programs of assistance as may be feasible  
16 and reasonably calculated to fulfill the purposes of this Act. This Act does not require the  
17 department to provide assistance in the absence of legislative appropriation therefor.

18 Section 15. An adult in a family receiving assistance under this Act may fill a vacant  
19 employment position in order to engage in a work activity except no such adult may be employed  
20 or assigned if any other individual is on layoff from the same or any substantially equivalent job  
21 or if the employer has terminated the employment of any regular employee or otherwise caused  
22 an involuntary reduction of its workforce in order to fill the vacancy so created.

23 Section 16. The department may reconsider assistance as frequently as may be required. The  
24 department may deny, reduce, suspend, or terminate assistance as the circumstances may indicate  
25 upon such reconsideration.

1       Section 17. An applicant or recipient whose application is denied or not acted upon or who  
2       is aggrieved by any action affecting receipt, suspension, reduction, or termination of assistance  
3       may appeal the action or inaction as provided in chapter 1-26.

4       Section 18. No applicant or recipient of assistance under this Act may:

- 5       (1)   Intentionally make or cause to be made any false statement or misrepresentation in  
6            any application, report, or other communication with the department; or  
7       (2)   Having knowledge of any event or circumstance affecting the initial or continued  
8            eligibility for assistance, intentionally conceal or fail to disclose that event or  
9            circumstance for the purpose of obtaining assistance.

10      The department may deny, reduce, or terminate assistance to any person or household who  
11      has violated this section for such period as may be reasonable or necessary to deter fraud or  
12      program abuse.

13      Section 19. The department may adopt, pursuant to chapter 1-26, necessary and reasonable  
14      policies and procedures to recover or recoup any overpayment of assistance that resulted from  
15      fraud or misrepresentation, erroneous determination of eligibility or amount of assistance, or  
16      otherwise.

17      Section 20. Assistance granted under this Act is not transferable or assignable at law or in  
18      equity. No money paid or assistance granted under this Act is subject to execution, levy,  
19      attachment, garnishment, or other legal process, except as may be expressly authorized by law  
20      for purposes of recovery or recoupment by the department, or to the operation of any  
21      bankruptcy or insolvency law.

22      Section 21. Assistance implemented under this Act is subject to the provisions of any  
23      amending or repealing act that may hereafter be enacted. No applicant or recipient of assistance  
24      under this Act has any claim for compensation or otherwise by reason of the effect of any such  
25      amending or repealing act.

Section 22. That § 28-6-3 be repealed.

~~28-6-3. Medical services and medical or remedial care may be provided on behalf of the following:~~

~~(1) Any person who is eligible for or receives assistance in the form of a money payment under the aid to dependent children program of the state department of social services, or the supplemental security income program pursuant to the Social Security Act; or~~

~~(2) Any person not otherwise eligible for public assistance who may meet the standard for medical need established by the secretary of social services, provided that the secretary of social services may not offer any services to such persons in addition to those offered to persons eligible under subdivision (1) of this section or as otherwise authorized by the Legislature.~~

Section 23. That §§ 28-7-1, 28-7-1.1, 28-7-1.2, 28-7-2, 28-7-4, 28-7-5, 28-7-6, 28-7-6.3, 28-7-7, 28-7-8, 28-7-9, 28-7-10, 28-7-12, 28-7-13, 28-7-13.2, 28-7-13.3, 28-7-14, 28-7-15, 28-7-16, 28-7-17, 28-7-18, 28-7-19, 28-7-26, 28-7-27, and 28-7-28 be repealed.

Section 24. That §§ 28-7-3.1, 28-7-17.1, 28-7-17.2, 28-7-17.4, 28-7-17.5, and 28-7-25 be transferred to chapter 28-1.

Section 25. That §§ 28-1-13.2, 28-1-30, and 28-1-54 to 28-1-58, inclusive, be repealed.

Section 26. That § 28-1-59 be amended to read as follows:

28-1-59. A ~~workfare participant~~ recipient of public assistance who incurs permanent partial disability, permanent total disability, death, or disease in the course of participation in a ~~workfare program~~ work activity is entitled to the same benefits as are set forth for work related injuries and diseases in Title 62. This provision does not include payment of medical expenses unless those expenses are necessitated by a permanent disability or disease. Eligibility for other public funded medical benefits shall reduce entitlement to medical benefits under this section

1 accordingly. In order to receive the above-referenced disability benefits, a ~~workfare~~ work activity  
2 participant must comply with all of the employee notice, reporting, and medical examination  
3 requirements set forth in Title 62. The initial report of injury shall be submitted by the ~~workfare~~  
4 work activity participant in writing to the Department of Social Services.

5 Section 27. That § 62-3-15 be amended to read as follows:

6 62-3-15. Except as provided in §§ ~~28-1-55~~ 28-1-59, 62-3-16, and 62-3-17, this title does not  
7 apply to:

- 8 (1) Domestic servants unless working for an employer for more than twenty hours in any  
9 calendar week and for more than six weeks in any thirteen-week period; or  
10 (2) Farm or agricultural laborers; or  
11 (3) ~~Workfare~~ Work activity participants.